

**IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF DELAWARE**

KENNETH COLE,)	
)	
Plaintiff,)	C.A. NO. 05-270 (KAJ)
)	
v.)	
)	JURY TRIAL DEMANDED
DELAWARE TECHNICAL AND)	
COMMUNITY COLLEGE,)	
)	
Defendant.)	

**PLAINTIFF'S MEMORANDUM IN SUPPORT OF ITS
MOTION TO CONSOLIDATE**

Plaintiff, Kenneth Cole (“Plaintiff Cole”) respectfully asks this Honorable Court to consolidate this case with Brigitte L. Brown v. Delaware Technical and Community College, Civil Action No. 05-271 (SLR).

INTRODUCTION

1. Plaintiff is Kenneth Cole and Defendant is Delaware Technical and Community College (“Defendant”).

2. In Civil Action No. 05-271(SLR), Plaintiff Brigitte Brown (“Plaintiff Brown”) sued Defendant for racial discrimination pursuant to Title VII of the Civil Rights Act of 1964, as amended, codified as 42 U.S.C. § 2000(e) et seq., as amended by the Civil Rights Act of 1991, 42 U.S.C. § 704(a) and 42 U.S.C. § 1981.

3. In this case, Plaintiff Cole sued Defendant for racial discrimination pursuant to Title VII of the Civil Rights Act of 1964, as amended, codified as 42 U.S.C. § 2000(e) et seq., as amended by the Civil Rights Act of 1991, 42 U.S.C. § 704(a) and 42 U.S.C. § 1981.

4. The facts in this case are both similar and substantially related to the subject matter of Civil Action 05-271(SLR).

5. Plaintiff Cole asks this Honorable Court to consolidate the two matters.

ARGUMENT

6. A Court may consolidate lawsuits if the suits relate to substantially the same subject matter and if consolidation does not result in delay, jury confusion or prejudice to the parties.

7. This suit and Civil Action No. 05-271(SLR) are substantially the same because both Plaintiff Cole and Plaintiff Brown have sued Defendant for racial discrimination resulting from Defendant's requirement that the Upward Bound Math and Science Group move to an inadequate office space, Defendant's failure to promote Plaintiff Cole and Plaintiff Brown, retaliatory treatment for the complaints of racial discrimination made by Plaintiff Cole and Plaintiff Brown and a breach of the implied covenant of good faith and fair dealing.

8. The suits proposed to be consolidated are pending before this Court for all purposes.

9. The undersigned counsel respectfully requests this Honorable Court to consolidate this suit with Civil Action No. 05-271(SLR) for the following reasons:

- a) The proceedings involve a common party. The Defendant in both civil actions is Delaware Technical and Community College;
- b) The proceedings involve common issues of law. Both civil actions are brought pursuant to Title VII of the Civil Rights Act of 1964, as amended, codified as 42 U.S.C. § 2000(e) et seq., as amended by the Civil Rights Act of 1991, 42 U.S.C. § 704(a) and 42 U.S.C. § 1981.

c) The proceedings involve common issues of fact. The basis for the civil actions is a result of Defendant's requirement that both Plaintiffs' move their respective office space to a less than adequate space based upon their race. Both Plaintiffs allege retaliation for the complaints each made to Defendant regarding the office move. Further, both Plaintiffs allege a failure to be promoted based on their race and a breach of the implied covenant of good faith and fair dealing.

d) Consolidation will conserve judicial resources. Both civil actions address common issues of law and fact and will conserve judicial resources in the actions are consolidated; and

g) Consolidation will reduce the time and expense of trying the actions separately.

CONCLUSION

10. For these reasons, Plaintiff Cole respectfully asks this Honorable Court to consolidate Civil Action No. 05-270(KAJ) with Civil Action No. 05-271(SLR) and to Order the Clerk of the Court to merge the cases into one lawsuit under Civil Action No. 05-271(SLR).

MARGOLIS EDELSTEIN

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Dated: August 4, 2005

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CERTIFICATE OF SERVICE

I, Keri L Morris, do hereby certify that on August 4, 2005, I electronically filed

Plaintiff's Memorandum in Support of Motion to Consolidate with the Clerk of the Court using CM/ECF which will send notification of such filing to the following attorney-of-record below:

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